

**ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

In the Matter of the Unlicensed Motor Vehicle  
Dealer Activity of:

No. 08F-BD052-BNK

**NOTICE OF HEARING**

**BRADLEY-FORD, INC. (FN) DBA  
BRADLEY FORD LINCOLN MERCURY**  
1690 Industrial Blvd.  
Lake Havasu City, Arizona 86403

Petitioner.

PLEASE TAKE NOTICE that, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-138 and 41-1092.02, the above-captioned matter will be heard through the Office of Administrative Hearings, an independent agency, and is scheduled for May 9, 2008, at 1:30 p.m., at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-9826 (the "Hearing").

The purpose of the Hearing is to determine if grounds exist for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Petitioner to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; and (3) an order or any other remedy necessary or proper for the enforcement of statutes and rules regulating motor vehicle dealers pursuant to A.R.S. §§ 6-123 and 6-131.

Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied or expressed, to the Director of the Office of Administrative Hearings or the Director's designee to preside over the Hearing as the Administrative Law Judge, to make written recommendations to the Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office of Administrative Hearings has designated Lewis D. Kowal, at the address and phone number listed above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative

1 Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the  
2 Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final  
3 decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law  
4 Judge is specifically prohibited from entering.

5 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**  
6 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue  
7 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of  
8 Administrative Hearings.

9 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by  
10 counsel, or to proceed without counsel during the giving of all evidence, to have a reasonable  
11 opportunity to inspect all documentary evidence, to cross-examine witnesses, to present evidence  
12 and witnesses in support of his/her interests, and to have subpoenas issued by the Administrative  
13 Law Judge to compel attendance of witnesses and production of evidence. Pursuant to A.R.S.  
14 § 41-1092.07(B), any person may appear on his or her own behalf or by counsel.

15 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be  
16 made by a court reporter or by electronic means. Any party that requests a transcript of the  
17 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

18 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant  
19 Attorney General Craig A. Raby, (602) 542-8889, 1275 West Washington, Phoenix, Arizona 85007.

#### 20 **NOTICE OF APPLICABLE RULES**

21 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")  
22 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting  
23 forth the rules of practice and procedure applicable in contested cases and appealable agency actions  
24 before the Superintendent. The hearing will be conducted pursuant to these rules and the rules  
25 governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through  
26 R2-19-122. A copy of these rules is enclosed.

1 Pursuant to A.A.C. R20-4-1209, Petitioner shall file a written answer **within twenty (20)**  
2 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Petitioner's position  
3 or defense and shall specifically admit or deny each of the assertions contained in this Notice of  
4 Hearing. If the answering Petitioner is without or are unable to reasonably obtain knowledge or  
5 information sufficient to form a belief as to the truth of an assertion, Petitioner shall so state, which  
6 shall have the effect of a denial. Any assertion not denied is deemed admitted. When Petitioner  
7 intends to deny only a part or a qualification of an assertion, or to qualify an assertion, Petitioner  
8 shall expressly admit so much of it as is true and shall deny the remainder. Any defense not raised  
9 in the answer is deemed waived.

10 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Petitioner will be**  
11 **deemed in default** and the Superintendent may deem the findings in this Notice of Hearing as true  
12 and admitted and the Superintendent may take whatever action is appropriate, including issuing an  
13 order or any other remedy necessary or proper for the enforcement of statutes and rules regulating  
14 motor vehicle dealers in Arizona pursuant to A.R.S. §§ 6-123 and 6-131; and imposing a civil  
15 money penalty pursuant to A.R.S. § 6-132.

16 Petitioner's answer shall be mailed or delivered to the Arizona Department of Financial  
17 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or  
18 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,  
19 Arizona 85007 and to Assistant Attorney General Craig A. Raby, Consumer Protection & Advocacy  
20 Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

21 **Persons with disabilities may request reasonable accommodations such as interpreters,**  
22 **alternative format or assistance with physical accessibility.** Requests for accommodations must  
23 be made as early as possible to allow time to arrange the accommodations. If accommodations are  
24 required, call the Office of Administrative Hearings at (602) 542-9826.

### 25 **FACTS**

26 1. Bradley-Ford, Inc. (FN) is a Kansas corporation, registered in Arizona as a foreign

1 corporation, doing business as Bradley Ford Lincoln Mercury ("Bradley Ford"), an Arizona  
2 registered Trade Name. Bradley Ford is not and was not at any time material herein authorized to  
3 transact business in Arizona as a motor vehicle dealer within the meaning of A.R.S. §§ 44-281,  
4 *et seq.* The nature of Bradley Ford's business is that of a motor vehicle dealer within the meaning of  
5 A.R.S. § 44-281(3) by arranging financing with banks and/or sales finance companies.

6 2. Michael James Bradley is the President of Bradley-Ford, Inc. (FN).

7 3. Bradley Ford is not exempt from licensure as a motor vehicle dealer within the  
8 meaning of A.R.S. § 44-282(G).

9 4. On July 17, 1991, Bradley Ford was issued a Motor Vehicle Dealer License,  
10 #0009646. Bradley Ford's Motor Vehicle Dealer License was closed on September 16, 2006, due to  
11 non-renewal;

12 5. On August 1, 2007, the Department received a notarized Motor Vehicle Dealer  
13 Application for Bradley Ford, which was completed and signed by Mr. Bradley. The application  
14 revealed and identified the names of five (5) sales finance companies that Bradley Ford conducted  
15 and is conducting business with while not licensed by the Department as a motor vehicle dealer;

16 6. On January 3, 2008, the Department received from Bradley Ford the following, via  
17 facsimile:

- 18 a. A facsimile cover sheet in which, Doug Falldorf ("Mr. Falldorf"), Bradley  
19 Ford's compliance and licensing contact, states in part, "... here is the list of  
20 new and used cars that are financed for ... Bradley Ford Lincoln Mercury."  
21 Mr. Falldorf also states, "Bradley Ford Lincoln Mercury has no in-house  
22 financing. All financing is done through outside financial institutions."; and  
23 b. A list of the number of vehicles sold by Bradley Ford and the amounts  
24 financed by financial institutions from September 2006 to December 1, 2007;  
25 specifically:

- 26 1. Bradley Ford sold eighty three (83) motor vehicles on a non cash basis

1 in September 2006 while arranging financing in the amount of two  
2 million one hundred two thousand three hundred twenty nine dollars  
3 and seventy three cents (\$2,102,329.73) without a license;

4 2. Bradley Ford sold forty seven (47) motor vehicles on a non cash basis  
5 in October 2006 while arranging financing in the amount of one  
6 million sixty four thousand two hundred ninety two dollars and eighty  
7 four cents (\$1,064,292.84) without a license;

8 3. Bradley Ford sold forty three (43) motor vehicles on a non cash basis  
9 in November 2006 while arranging financing in the amount of one  
10 million one hundred twenty six thousand one hundred fifty nine dollars  
11 and four cents (\$1,126,159.04) without a license;

12 4. Bradley Ford sold thirty nine (39) motor vehicles on a non cash basis  
13 in December 2006 while arranging financing in the amount of one  
14 million twenty nine thousand one hundred sixty four dollars and six  
15 cents (\$1,029,164.06) without a license;

16 5. Bradley Ford sold thirty three (33) motor vehicles on a non cash basis  
17 in January 2007 while arranging financing in the amount of eight  
18 hundred eighty five thousand forty six dollars and forty seven cents  
19 (\$885,046.47) without a license;

20 6. Bradley Ford sold thirty nine (39) motor vehicles on a non cash basis  
21 in February 2007 while arranging financing in the amount of nine  
22 hundred eighty three thousand nine hundred twenty nine dollars and  
23 eighteen cents (\$983,929.18) without a license;

24 7. Bradley Ford sold seventy four (74) motor vehicles on a non cash basis  
25 in March 2007 while arranging financing in the amount of one million  
26 six hundred eighty eight thousand seven hundred forty two dollars and

1 nine cents (\$1,688,742.09) without a license;

- 2 8. Bradley Ford sold forty (40) motor vehicles on a non cash basis in  
3 April 2007 while arranging financing in the amount of eight hundred  
4 sixty four thousand one hundred ninety one dollars and three cents  
5 (\$864,191.03) without a license;
- 6 9. Bradley Ford sold fifty two (52) motor vehicles on a non cash basis in  
7 May 2007 while arranging financing in the amount of one million  
8 three hundred thirty six thousand twenty two dollars and sixty nine  
9 cents (\$1,336,022.69) without a license;
- 10 10. Bradley Ford sold forty (40) motor vehicles on a non cash basis in  
11 June 2007 while arranging financing in the amount of one million  
12 sixty two thousand seventy three dollars and two cents (\$1,062,073.02)  
13 without a license;
- 14 11. Bradley Ford sold forty seven (47) motor vehicles on a non cash basis  
15 in July 2007 while arranging financing in the amount of one million  
16 one hundred eighty five thousand six hundred thirty six dollars and  
17 seventy eight cents (\$1,185,636.78) without a license;
- 18 12. Bradley Ford sold sixty one (61) motor vehicles on a non cash basis in  
19 August 2007 while arranging financing in the amount of one million  
20 three hundred ninety five thousand forty three dollars and eighty nine  
21 cents (\$1,395,043.89) without a license;
- 22 13. Bradley Ford sold thirty six (36) motor vehicles on a non cash basis in  
23 September 2007 while arranging financing in the amount of eight  
24 hundred eighty four thousand six hundred twenty four dollars and  
25 thirty two cents (\$884,624.32) without a license;
- 26 14. Bradley Ford sold forty five (45) motor vehicles on a non cash basis in

1 October 2007 while arranging financing in the amount of one million  
2 seventy two thousand two hundred thirty dollars and twenty six cents  
3 (41,072,230.26) without a license;

4 15. Bradley Ford sold forty eight (48) motor vehicles on a non cash basis  
5 in November 2007 while arranging financing in the amount of one  
6 million two hundred eleven thousand sixty two dollars and fifty six  
7 cents (\$1,211,062.56) without a license; and

8 16. Bradley Ford sold twenty five (25) vehicles on a non cash basis for the  
9 partial month of December 2007 without a license.

10 7. Based upon the above findings, the Department issued and served upon Bradley Ford  
11 a Notice of Assessment on February 19, 2008.

12 8. On March 12, 2008, Petitioner filed a Request For Hearing to appeal the Notice of  
13 Assessment.

14 **LAW**

15 1. Pursuant to Title 6 and Title 44, Chapter 2.1 of the Arizona Revised Statutes, the  
16 Superintendent has the authority and the duty to regulate all persons engaged in the motor vehicle  
17 dealer business and with the enforcement of statutes, rules, and regulations relating to motor vehicle  
18 dealers.

19 2. The conduct of Bradley Ford, as alleged above constitutes the conduct of a motor  
20 vehicle dealer in the State of Arizona without having first obtained a motor vehicle dealer license  
21 under Chapter 2.1 of Title 44, in violation of A.R.S. § 44-282(A).

22 3. Bradley Ford does not meet any of the exemptions to the licensing requirements set  
23 forth in A.R.S. § 44-282(G).


24 4. The violations, set forth above, constitute grounds for: (1) the issuance of an order  
25 pursuant to A.R.S. § 6-137 directing Petitioner to cease and desist from the violative conduct and to  
26 take the appropriate affirmative actions, within a reasonable period of time prescribed by the

1 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and  
2 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; and (3) an  
3 order or any other remedy necessary or proper for the enforcement of statutes and rules regulating  
4 motor vehicle dealers pursuant to A.R.S. §§ 6-123 and 6-131.

5 WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the  
6 above-described violations, the Superintendent may issue a cease and desist order pursuant to A.R.S.  
7 § 6-137; affirm the February 19, 2008 Notice of Assessment or impose a civil money penalty  
8 pursuant to A.R.S. § 6-132; and order any other remedy necessary or proper for the enforcement of  
9 statutes and rules regulating motor vehicle dealers pursuant to A.R.S. §§ 6-123 and 6-131.

10 DATED this 31 day of March, 2008.

11 Felecia A. Rotellini  
12 Superintendent of Financial Institutions

13 By   
14 Robert D. Charlton  
15 Assistant Superintendent of Financial Institutions

16 ORIGINAL of the foregoing filed this 31<sup>st</sup>  
17 day of March, 2008, in the office of:

18 Felecia A. Rotellini  
19 Superintendent of Financial Institutions  
20 Arizona Department of Financial Institutions  
21 ATTN: Susan L. Longo  
22 2910 N. 44th Street, Suite 310  
23 Phoenix, AZ 85018

24 COPY mailed same date to:

25 Lewis D. Kowal, Administrative Law Judge  
26 Office of the Administrative Hearings  
1400 West Washington, Suite 101  
Phoenix, AZ 85007

Craig A. Raby, Assistant Attorney General  
Office of the Attorney General  
1275 West Washington  
Phoenix, AZ 85007



1 Richard Fergus, Division Manager  
2 Tammy J. Seto, Senior Examiner  
3 Arizona Department of Financial Institutions  
2910 N. 44th<sup>h</sup> Street, Suite 310  
Phoenix, AZ 85018

4 AND COPY MAILED SAME DATE by  
5 Certified Mail, Return Receipt Requested, to:

6 Bradley-Ford, Inc. (FN) dba Bradley  
7 Ford Lincoln Mercury  
c/o Michael James Bradley, President  
1690 Industrial Blvd.  
Lake Havasu City, Arizona 86403  
8 Respondent

9 Doug Falldorf  
10 Bradley-Ford, Inc. (FN) dba Riverview Auto Sales  
1686 Industrial Blvd.  
Lake Havasu City, Arizona 86403

11 CT Corporation System, Statutory Agent For:  
12 Bradley-Ford, Inc. (FN) dba Bradley  
Ford Lincoln Mercury  
13 2394 E. Camelback Road  
Phoenix, AZ 85016

14  
15   
167680; PHX-AGN-2008-0019



## ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

Felecia A. Rotellini  
Superintendent of Financial Institutions

Janet Napolitano  
Governor

March 31, 2008

Via Certified Mail

Michael James Bradley, President  
Bradley-Ford, Inc. (FN) dba Bradley  
Ford Lincoln Mercury  
1690 Industrial Blvd.  
Lake Havasu City, Arizona 86403

Reference: Docket # 08F-BD052-BNK / Bradley-Ford, Inc. (FN)  
dba Bradley Ford Lincoln Mercury

Dear Mr. Bradley:

Please find the enclosed formal Notice of Hearing. The hearing is scheduled for **May 9, 2008, at 1:30 p.m.** at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona.

Please contact **Assistant Attorney General Craig Raby at (602) 542-8889** with any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "RDC", is written over a horizontal line.

Robert D. Charlton  
Assistant Superintendent

RDC:sl

Enclosures

cc: Craig Raby, Assistant Attorney General